

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

DEBORAH C. PISANO,)	
)	
Plaintiff,)	
)	
v.)	CV420-170
)	
SOCIAL SECURITY)	
ADMINISTRATION,)	
)	
Defendants.)	

ORDER AND REPORT AND RECOMMENDATION

The Court, by Report and Recommendation (R&R) of September 14, 2020, recommended that plaintiff's motion for leave to proceed *in forma pauperis* (IFP) be denied and the Complaint be dismissed for her failure to provide a factual basis for her claim and to correct her deficient IFP application. *See* doc. 5. The R&R was mailed to the address provided by plaintiff but was returned to the Court as undeliverable. Doc. 6. On November 20, 2020, the Court again mailed the R&R using a different address.¹ Plaintiff filed an amended IFP application on December 7, 2020, 70 days after the R&R's objection period closed. Doc. 7. Though untimely,

¹ Plaintiff did not file a formal notice of changed address and it is unclear from the docket why the Clerk of Court resent the Report and Recommendation.

the amended application evidences that plaintiff lacks sufficient resources to pay the \$400 filing fee. Therefore, the Court **VACATES** its prior R&R, doc. 5, and **GRANTS** the motion for leave to proceed *in forma pauperis*, docs. 2 & 7.


Plaintiff's amended IFP application, however, does not resolve the other deficiencies identified in the Court's R&R. Among the Complaint's omissions is the failure to allege *any* error of fact or law with the underlying decision of the Social Security Commissioner. Doc. 1 at 3. Also absent are the date of such decision and the date of plaintiff's filing. *Id.* Those sections of the form complaint are left completely blank. *See id.* The failure to provide this information makes it impossible to determine the relevant facts of the case and to confirm that the filing was timely. As plaintiff's complaint remains deficient, despite the problems having been previously noted by the Court, it is **RECOMMENDED** that the complaint be **DISMISSED**.²

² The opportunity to object to this R&R within 14 days, discussed below, affords plaintiff a final opportunity to resuscitate her claim. She may submit an Amended Complaint during that period if she believes it would cure the legal defects discussed above. *See Willis v. Darden*, 2012 WL 170163, at * 2 n.3 (S.D. Ga. Jan. 19, 2012) (*citing Smith v. Stanley*, 2011 WL 1114503, at * 1 (W.D. Mich. Jan. 19, 2011)).

This report and recommendation (R&R) is submitted to the district judge assigned to this action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court's Local Rule 72.3. Within 14 days of service, any party may file written objections to this R&R with the Court and serve a copy on all parties. The document should be captioned "Objections to Magistrate Judge's Report and Recommendations." Any request for additional time to file objections should be filed with the Clerk for consideration by the assigned district judge.

After the objections period has ended, the Clerk shall submit this R&R together with any objections to the assigned district judge. The district judge will review the magistrate judge's findings and recommendation pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that failure to timely file objections will result in the waiver of rights on appeal. 11th Cir. R. 3-1; *see Symonette v. V.A. Leasing Corp.*, 648 F. App'x 787, 790 (11th Cir. 2016); *Mitchell v. United States*, 612 F. App'x 542, 545 (11th Cir. 2015).

SO ORDERED AND REPORTED AND RECOMMENDED, this
8th day of December, 2020.



CHRISTOPHER L. RAY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA